

**RULES
OF
TENNESSEE DEPARTMENT OF HUMAN SERVICES
ADMINISTRATIVE PROCEDURES DIVISION**

**CHAPTER 1240-5-5
THE ADMINISTRATIVE JUDGE/HEARING OFFICER**

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1240-5-5-.01 ROLE. The Commissioner of the Department of Human Services has placed responsibility for hearings in the Administrative Review Division. The Administrative Judge/Hearing Officer in the Administrative Review Division is vested with full authority in the conduct of the hearing process. The Administrative Judge/Hearing Officer is fully responsible for conducting hearings properly and promptly in accordance with the rules and regulations established by the Department.

Authority: TCA §4-5-312. **Administrative History:** Original rule filed January 19, 1977; effective February 18, 1977. Amendment filed December 17, 1982; effective March 16, 1983.

1240-5-5-.02 AUTHORITY.

- (1) The Administrative Judge/Hearing Officer shall have the authority to do the following:
 - (a) Schedule the hearing and conduct the hearing;
 - (b) Administer oaths;
 - (c) Issue subpoenas;
 - (d) Rule upon offers of proof;
 - (e) Regulate the course of the hearing;
 - (f) Set the time and place for continued hearings;
 - (g) Write an initial order stating his/her decision; and
 - (h) Rule on petitions for reconsideration of the initial order.

Authority: TCA §4-5-312. **Administrative History:** Original rule filed January 19, 1977; effective February 18, 1977. Amendment filed July 10, 1980; effective August 25, 1980. Amendment filed December 17, 1983; effective March 16, 1983.

1240-5-5-.03 RULING OF ADMINISTRATIVE JUDGE/HEARING OFFICER ON CONTINUATION OF BENEFITS PENDING THE FINAL DECISION. When assistance or services are continued as a result of the appeal being filed within ten (10) days of the advance notice, the further continuation of assistance or services up to the outcome of the final order will be ruled upon at the hearing by the Administrative Judge/Hearing Officer. The Administrative Judge/ Hearing Officer must rule at the hearing on whether the issue being appealed is one of law, regulation, or policy, or whether the issue relates to a matter of fact or judgment applicable to an individual

(Rule 1240-5-5-.03, continued)

case. If the Administrative Judge/Hearing Officer rules that the issue being appealed is one of law, regulation, or policy, benefits will be reduced or terminated immediately as proposed in the notice of adverse action.

Authority: TCA §4-5-301. **Administrative History:** Original rule filed January 19, 1977; effective February 18, 1977. Amendment filed December 17, 1983; effective March 16, 1983.

1240-5-5-.04 INITIAL ORDER.

- (1) The initial order by the Administrative Judge/Hearing Officer shall be based exclusively on evidence and other material introduced at the hearing. It shall specify the reason for the decision and identify the supporting evidence and regulations, and make findings of fact and conclusions of law.
- (2) The initial order shall be served on all parties of record.
- (3) The initial order must include a statement of the available procedures and time limits for petitioning for reconsideration and/or appeal.
- (4) The initial order will be reviewed by the Commissioner or his/her designated representative prior to the entering of a final order.

Authority: TCA §4-5-314. **Administrative History:** Original rule filed January 19, 1977; effective February 18, 1977. Amendment filed December 17, 1983; effective March 16, 1983.